

Remarks

Applicant hereby adds new claims 45-47.

Claims 1-4, 6-10, 12, 14-16, and 18-44 stand rejected under 35 USC 102 for anticipation by Genovese. Claims 5, 11 and 26 stand rejected under 35 USC 103 for obviousness over Genovese in view of Vincent.

Applicants respectfully request reconsideration of the rejections.

Referring to the anticipation rejections, Applicant notes the requirements of MPEP §2131 (8th ed., rev. 5), which states that TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM. The **identical invention** must be shown in as complete detail in the prior art as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). **The elements of the prior art must be arranged as required by the claim.** *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Referring to independent claim 1, Genovese teaches utilization of plural laser diodes 150, 151 to scan lines upon photoreceptor 10. At col. 8, lines 58+ and with respect to Fig. 4, Genovese teaches use of a *signal indicative of the difference in exposure power between plural laser beams 103, 104* to dynamically control the drive currents exciting laser diodes 150, 151. The teachings of Genovese fail to teach or suggest the claimed limitations of only the sampled single light beam is used to control a drive level of the light source. Applicants respectfully assert that claim 1 is allowable for at least this reason.

The claims which depend from independent claim 1 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

For example, referring to claim 3, the Office has failed to identify any teachings in the prior art and Applicants have failed to locate any teachings in the prior art of the claimed processing circuitry configured to compare an indication of the sampled light beam with a predetermined value as positively claimed. Claim 2 is allowable for at least this reason.

Referring to the rejection of claims 5, 11 and 26, Applicants respectfully traverse any taking of official notice in support of the rejection. The undersigned

hereby traverses and seasonably challenges any reliance upon Official Notice pursuant to MPEP §2144.03 (8th ed., rev. 5), and requests the Examiner cite a reference or affidavit in support of his or her position in a non-final Action if the claims are not allowed. MPEP 2144.03A (8th ed., rev. 5) provides that *official notice unsupported by documentary evidence should only be taken by the examiner when the facts asserted to be well known or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well known*. It is not appropriate for the Office to take official notice of facts without a reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. MPEP 2144.03A (8th ed., rev. 5) provides that *official notice is proper when the facts are capable of instant and unquestionable demonstration as to defy dispute*. MPEP 2144.03A gives examples of limitations which are considered well known, such as when new audio information is recorded then the old information is erased, or when a heat requirement is varied it is well known to vary a flame. The MPEP states that Official Notice is proper when the *teachings are readily verifiable* (e.g., use of a control in bacteriology). MPEP 2144.03B (8th ed., rev. 5). MPEP 2144.03A and 2144.04E make clear that *Official Notice is proper with respect to facts which are of notorious character and serve only to fill in the gaps in an insubstantial manner*. Appellants respectfully submit that entire positively recited limitations are not notorious and do not fill in gaps in an insubstantial manner but are rather directed toward entire limitations which are not found anywhere in the prior art. Appellants respectfully submit the Office has inappropriately disregarded the combination of limitations of the claims and improperly focused upon the limitations taken individually. The question under 35 U.S.C. §103 is not whether the differences between the prior art and the claims would have been obvious, but whether the claimed invention *as a whole* would have been obvious. *Stratoflex, Inc. vs. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871, 877 (Fed. Cir. 1983); M.P.E.P. §2141.02 I (8th ed. Rev. 5).

Referring to independent claim 9, Applicants respectfully submit that the reliance upon inherency is misplaced and improper. In particular, the Office must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the

teachings of the applied prior art. *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). MPEP 2112 IV (8th ed., rev. 5). To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Continental Can Co. v. Monsanto Co., 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). Inherency, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. In re Robertson 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (internal citations omitted). The Office has failed to provide a sufficient basis in fact and/or technical reasoning that the claimed limitations of claim 9 necessarily flow from the teachings of the applied prior art. Applicants respectfully submit the 102 rejection is improper for at least this reason.

The claims which depend from independent claim 9 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 14, the arrangement of *plural laser teachings 150, 151, multiple light beams 103, 104* and control of drive currents of the plural lasers using a signal indicative of difference in exposure power between beams 103 and 104 of Genovese fails to teach or suggest the claimed control system configured to receive an indication of the sampled single light beam and to maintain the drive level of the laser at a constant drive level *using the indication of the sampled single light beam* as positively defined in claim 14. Applicants respectfully submit the anticipation rejection is improper for at least this reason.

The claims which depend from independent claim 14 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 18, the arrangement of *plural laser teachings 150, 151, multiple light beams 103, 104* and control of drive currents of the plural lasers using a signal indicative of difference in exposure power between beams 103 and 104 of Genovese fails to teach or suggest the claimed *means for maintaining the*

means for generating at a constant drive level using the indication of the sampled single light beam. Applicants respectfully submit the anticipation rejection is improper for at least this reason.

The claims which depend from independent claim 18 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 22, the arrangement of *plural laser teachings 150, 151, multiple light beams 103, 104* and control of drive currents of the plural lasers using a signal indicative of difference in exposure power between beams 103 and 104 of Genovese fails to teach or suggest the claimed sampling only the single light beam or the controlling the light source only using the sampling of only the single light beam as positively claimed. Applicants respectfully submit the anticipation rejection is improper for at least this reason.

The claims which depend from independent claim 22 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 29, the arrangement of *plural laser teachings 150, 151, multiple light beams 103, 104* and control of drive currents of the plural lasers using a signal indicative of difference in exposure power between beams 103 and 104 of Genovese fails to teach or suggest the claimed sampling assembly configured to generate a signal indicative of the sampling of a single light beam or the claimed control system configured to control an intensity of the light beam generated by the laser responsive to the signal indicative of the sampling of the single light beam. Applicants respectfully submit the anticipation rejection is improper for at least this reason.

The claims which depend from independent claim 29 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 31, the arrangement of *plural laser teachings 150, 151, multiple light beams 103, 104* and control of drive currents of the plural lasers

using a signal indicative of difference in exposure power between beams 103 and 104 of Genovese fails to teach or suggest the claimed access of output of the start-of-scan detector assembly which is indicative of only the single light beam or the adjusting the control signal responsive to the processing of the output as claimed. Applicants respectfully submit the anticipation rejection is improper for at least this reason.

The claims which depend from independent claim 31 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Applicants hereby add new claims 45-47 which are supported at least by Figs. 4, 6 and 7 and the associated teachings of the specification.

Applicant respectfully requests allowance of all pending claims.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,
William D. Holland

By: 

James D. Shaurette

Reg. No. 39/833

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(509) 624-4276